

September 9th, 2021

Mr. Robert "Bob" McAnelly, Chairman
Louisiana Board of Ethics
P.O. Box 4368
Baton Rouge, Louisiana 70821

Request for Reconsideration of Advisory Opinion 21-352; City of Zachary- City Attorney

Dear Mr. McAnelly,

I am in receipt of Advisory Opinion 2021-352 in which as of August 12, 2021, your board opined that it would be a violation of LSA-R.S. 42:1111(C)(2)(d) for my law firm to sub-lease an office to a third-party contractor that does business with the City of Zachary, of which I also serve in the capacity as the City Attorney. The law firm leases its office space from another closely held company, Old Scenic Properties, LLC.

I write to you today to ask that your board reconsider its opinion and the implications of the same as they relate to all other similarly suited public employees.

It appears from the opinion itself that the reasoning was based upon the provisions of LSA-R.S. 42:1111(C)(2)(d)¹ and applying LSA-R.S. 42:1115(B)(2)² to say that because the third-party contractor had substantial economic interests which might be affected by the performance or nonperformance of my official duties, the third-party contractor would be a prohibited source.

That said, it was recognized in the opinion itself that "...third party contractor does not have a contractual, business, or other financial relationship with your agency - the Office of the City Attorney." And this much is true. If, as established by your board that there is no contractual, business, or other financial relationship between the third-party contractor and my agency - how then would any substantial economic interests of the third-party contractor be substantially affected by my performance or nonperformance?

¹ **LSA R.S.42:1111 Payment from nonpublic sources**

C. Payments for nonpublic service.

...(2) No public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are:

...(d) Neither performed for nor compensated by any person from whom such public servant would be prohibited by R.S. 42:1115(A)(1) or (B) from receiving a gift. (Redacted.)

² **LSA R.S. 42:1115 Gifts**

...B. No public employee shall solicit or accept, directly or indirectly, anything of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person, if such public employee knows or reasonably should know that such person:

...(2) Has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty. (Redacted.)

While my responsibilities as the chief legal advisor to the City of Zachary require me to advise City officials across all agencies, I am not the decision maker for those individual agencies nor for the City at large. While these respective agency heads may rely upon what I tell them, they ultimately make the decisions for their agencies.

Additionally, and as an attorney in private practice, I occasionally deal with potential conflicts of interest. Sometimes these same potential conflicts concerns appear as I carry out my City Attorney duties. The City of Zachary has an appointed Assistant City Attorney who I have historically relied upon when the implications of a conflict arise. Any potential conflict concerning the contractual, business, or other financial relationship between the third-party contractor and the City could be would/could be handled by the appointed Assistant City Attorney.

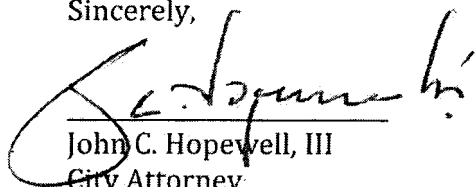
Lastly, to say that my performance or lack thereof might impact the substantial economic interests of a third-party contractor with whom my agency has no contractual, business, or other financial relationship is at best to ignore the obvious and at worst to extend the reach of an already established framework of ethical guidance that the Louisiana legislature did not see fit to do.

For the reasons stated above, I respectfully request your reconsideration of Advisory Opinion 2021-352. If additional information is required or follow up necessarily required, please do not hesitate to contact me.

For purposes of docketing, I do not intend to request that I be heard and will submit this request for reconsideration based upon the arguments made above.

Thank you and I await your response.

Sincerely,

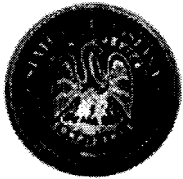


John C. Hopewell, III
City Attorney
JCHIII/nkb

Tracy Barker (Ethics)

From: LaToya Jordan
Sent: Thursday, September 9, 2021 11:55 AM
To: Tracy Barker (Ethics)
Subject: FW: 2021-0352 Reconsideration Request
Attachments: LBE 21-0352 Reconsideration Request pdf 090921.pdf

Tracy, Mr. Hopewell has requested for a reconsideration.



LaToya D. Jordan, Esq.
Staff Attorney
The Louisiana Board of Ethics

From: John Hopewell [mailto:john.hopewell@cityofzachary.org]
Sent: Thursday, September 9, 2021 10:24 AM
To: LaToya Jordan <LaToya.Jordan@LA.GOV>
Subject: 2021-0352 Reconsideration Request

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

Ms. Jordan,

I attach my formal request for reconsideration of the matter above. Although mentioned in the letter, I do not intend to make any oral argument to the Board and will rely upon my reply in the request for reconsideration itself.

If you require any additional information, please do not hesitate to contact me. I appreciate your assistance in this matter.

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